is sustained by *Blatz* v. *Rohrbach*, 116 N. Y. 450, 6 L. R. A. 669; *Netso* v. *State*, 24 Fla. 363, 1 L. R. A. 825.

CRIMINAL LAW — SELF-DEFENSE — PROVOKED ASSAULT. — Defendant sought a meeting with another person, intending to provoke an assault. While engaged in the affray, defendant, seeing himself in danger, shot the other party. In a prosecution for assault with intent to murder, *Held*, that the fact that defendant sought the assault does not preclude him from justifying on the ground of self-defense. *Williams* v. *State*, (1902), — Tex. Cr. App. —, 69 S. W. Rep. 415.

The court in its opinion gives expression to the idea that one can provoke an assault, and, seeing himself likely to be worsted, can take the other's life on the ground of self-defense. The defendant may thus excuse himself by a necessity created by his own fault. Such a determination is contrary to authority, old and modern; as, 1 HAWK. P. C. 87; 1 RUSSELL ON CRIMES, 669; BISHOP'S CRIMINAL LAW, § 865; *Selfridge's Case*, 1 H. & T. Cases on Self-Defense, 24; *People* v. *Lamb*, 17 Cal. 323; *Tesney* v. *State*, 77 Ala. 33; *State* v. *Neely*, 20 Ia., 108; *Story* v. *State*, 99 Ind. 413; *State* v. *Gilmore*, 95 Mo. 554; *State* v. *Smith*, 10 Nev. 106.

DEED—ACKNOWLEDGMENT OF MARRIED WOMAN.—A married woman acknowledged a contract to convey, as not executed under fear or compulsion of her husband, but that she did not do it freely. *Held*, that the clerk was justified in certifying to the acknowledgment as being her free act and deed. *Goldsteen* v. *Curtis* (1902), — N. J. Eq. —, 52 Atl. Rep. 218.

N. J. Acts (1898), p. 685, sec. 39, provide that every conveyance by a married woman, in order to release her dower, must be previously acknowledged, separate and apart from her husband, as signed, sealed and delivered by her "as her voluntary act and deed, freely and without any fear, threats, or compulsion of her husband." The court said: "My understanding of the force of the word 'freely' in that connection is, that it relates entirely to the relation between the husband and wife, and indicates a condition of freedom on her part, from influence of her husband, and not of freedom from the obligation of a contract or other duty."

DEED—AGREEMENT TO SUPPORT—CANCELLATION.—A, by warranty deed, conveyed certain land to his son B, in fee. A contemporaneous agreement to support was executed by B to A, accompanied by a bond, for a specific sum, to be forfeited in case of failure to support. Said bond was to be a lien upon the property conveyed. In an action for cancellation of the deed, *Held*, that A was confined to his remedy on the bond, and could not have cancellation. *Van Horn* v. *Mercer* (1902), — Ind. —, 64 N. E. Rep. 531.

In a recent case in Wisconsin, involving substantially the same facts, the court held that the father was not confined to his remedy on the bond, but could have cancellation. *Wanner* v. *Wanner* (1902), —, Wis. —, 91 N. W. Rep. 671.

The position taken by the Indiana court seems to be extreme, when we consider the reason assigned by courts of equity for granting cancellation for breach of an agreement to support, namely, to prevent a child from taking an unconscionable advantage of a confiding parent. As a rule, the only real consideration for such a conveyance, is the personal care and support the parent expects to receive from the child. The contract is personal, and cannot be assigned by either party. *Thomas* v. *Thomas*, 24 Ore. 251; *Eastman* v. *Batchelder*, 36 N. H. 141.

The Ohio court has granted cancellation, basing their decision on the ground of fraud. *Reid* v. *Burns*, 13 Oh. St. 49. Courts of equity have granted cancellation where a mortgage was given to insure support. *Kusch* v. *Kusch*, (1902), — Wis. —, 89 N. W. Rep. 118, or where the conveyance reserves a life estate to the grantor, together with an agreement to support the grantee. *Patterson* v. *Patterson*, 81 Ia. 626, 47 N. W. Rep. 768; *Lockwood* v. *Lockwood*, 124 Mich. 627, 83 N. W. Rep. 613. An early Illinois case is directly in point with the principal case. It sustains the conclusion reached by the Wisconsin court. *Frazier* v. *Miller*, 16 Ill. 48.

It would seem that, if the remedy on the bond would not place the parent in as good a position as he was before the conveyance was made, then cancellation should be granted.

FRAUD—SALES—FALSE REPRESENTATIONS TO MERCANTILE AGENCY.—An action was brought to recover the price of goods sold, notwithstanding a discharge in bankruptcy, alleging that the goods were obtained by fraudulent representations. The defendant was alleged to have made a false statement of his assets to a commercial agency, which gave him a rating based on this statement and information from other sources. The vendor, in giving credit, relied wholly on the rating as published, knowing nothing of the vendee's statement. *Held*, (Vann, J. dissenting), that this was such fraud as would ustify a recovery. *Tindle* v. *Birkett* (1902), — N. Y. —, 64 N. E. Rep. 210.

The Appellate Division affirmed the judgment dismissing the complaint, holding that unless the vendee's statement was communicated to the vendor, and relied upon by him, no action was maintainable. 57 App. Div. 540. The Court of Appeals reversed this decision, saying that "if the buyer does just what this defendant did, and procures a fraudulent rating, intending that it should be published to the business community and taken as true, it is a fraud on the person who relies and acts upon it." In a bankruptcy proceeding by the same parties, in the U. S. District Court, it was held that the action of the vendee did not amount to a fraud on the vendor. 5 Am. Bankruptcy Cases 608.

Apparently the only other case involving similar facts is *Aultman* v. *Carr* (1897), — Tex. —, 42 S. W. Rep. 614, in which it was held that the vendor need have no knowledge of the false statements, but it is sufficient that he relies on a rating based upon them. In the other cases of this sort the vendee's statements seem always to have been communicated to the vendor, and the opinions indicate that the seller must have actual knowledge of them, and that a mere deduction by the agency is not binding on the buyer. *Holmes* v. *Harrington*, 50 Mo. App. 661; *Stevens* v. *Ludlum*, — Minn. —, 48 N. W. Rep. 771; *Kilpatrick* v. *McPheely*, 37 Neb. 800. Where the agency's report is made up partly of its own conclusions and partly of the buyer's statements, and the seller relies on the report *as a whole*, he can not rescind. *Poska* v. *Stearns*, 56 Neb. 541, 76 N. W. Rep. 1078. Knowingly to permit continued publication of statements made to a commercial agency when no longer true, is fraud. MECHEM ON SALES, § 896, and cases cited.

INSURANCE—TOTAL LOSS.—A cold storage building was insured in appellant company under two policies providing, that except in case of total loss, on the failure of parties to agree, the loss should be estimated by three disinterested parties. The building burned, but portions of the walls were left standing, though the testimony was conflicting as to their value. The trial court charged that there was a total loss, even if portions of the walls left were suitable for rebuilding, provided the building had lost its identity and specific